

INITIATIVE 671

I, Ralph Munro, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 671 to the People is a true and correct copy as it was received by this office.

1 AN ACT Relating to gaming by tribes; and adding new sections to
2 chapter 9.46 RCW.

3 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** It is declared to be the public policy of
5 the state of Washington to assist in promoting economic development,
6 self-sufficiency, and strong tribal governments for federally
7 recognized Indian tribes located in the state. In recent years, tribal
8 economies have suffered dramatically from a decline in jobs and revenue
9 from their mainstay natural resources industries, such as fishing and
10 forestry, and from a reduction in federal programs that support tribal
11 governmental services. Due to the location of many tribal communities
12 and their generally limited and restricted land base, restoring and
13 developing tribal economies presents a substantial challenge. Properly
14 controlled and regulated gaming activities can assist tribes in
15 restoring their economies and improving their general welfare by
16 providing employment opportunities, revenue for education, improved
17 health care, social services, public safety services such as police and
18 fire protection, and economic development.

1 Gaming activities such as lottery and keno are currently conducted
2 by the state as a means of providing revenue for state governmental
3 programs and services. It is the purpose of this act to establish a
4 limited and closely regulated electronic gaming activity for tribes as
5 a means to increase economic self-sufficiency and to help fund tribal
6 government programs. It is intended that the electronic gaming
7 activities authorized under this act be conducted in a manner that
8 ensures that: (1) Tribes are the primary beneficiaries of the
9 activities; (2) gaming is conducted fairly and honestly by both
10 operators and players; (3) the activities are closely regulated by the
11 state and tribes; (4) state gaming regulatory and local public safety
12 services related to these activities are funded; (5) revenues are
13 generated for state and local economic development, as well as
14 restoration and enhancement of salmon and fisheries habitat and
15 watersheds, for the benefit of the entire state; and (6) revenues are
16 generated for state and local charitable activities.

17 Tribes are authorized by federal law, the Indian Gaming Regulatory
18 Act of 1988, P.L. 100-497 (25 U.S.C. Sec. 2701 et seq. and 18 U.S.C.
19 Sec. 1166 et seq.), to engage in class III gaming activities if such
20 activities are located in a state that permits such gaming for any
21 purpose by any person, organization, or entity. This act is intended
22 to authorize an amendment to existing tribal-state compacts, under the
23 Indian Gaming Regulatory Act of 1988. The state has traditionally
24 either or both permitted and conducted gaming activities within the
25 state, including, among others, lottery, keno, parimutuel betting for
26 horse racing, punch boards, pull-tabs, card rooms, and Reno nights.
27 The state hereby recognizes that Indian tribes should also be allowed
28 to engage in electronic gaming activities.

29 The Washington state gambling commission and the tribe shall co-
30 regulate, and implement under a two-phase approach, electronic gaming
31 activities authorized by this act. The regulatory requirements set
32 forth in this act must be in place and operational before commencing
33 phase I operation. Implementation of phase II must be conditioned upon
34 not less than twelve months of continual phase I operation and
35 completion of a favorable regulatory compliance review by the state and
36 the tribal gaming agency. A tribe may operate two hundred ninety-five
37 class III electronic gaming devices or less at the option of the tribe
38 during phase I and four hundred ninety-five class III electronic gaming
39 devices or less at the option of the tribe during phase II. In

1 addition, a tribe shall operate up to five electronic gaming devices to
2 support state-wide and local charitable organizations.

3 A broad coalition of Washington Indian tribes has reached consensus
4 on this act, whereas a prior proposal to expand tribal gaming was
5 opposed by many tribes and was defeated.

6 NEW SECTION. **Sec. 2.** The definitions in the compact in section 3
7 of this act apply to sections 1 through 6 of this act.

8 NEW SECTION. **Sec. 3.** The state hereby approves an amendment to
9 existing tribal-state compacts that contain the following quoted terms.
10 The state and any tribe may subsequently amend these compacts only by
11 mutual agreement.

12 "PART I. DEFINITIONS

13 For purposes of this compact:

14 (1) "Charitable contributions" means: (a) The "local charitable
15 contribution," which is the percentage of revenues based on gross
16 gaming revenues less prizes paid to players from electronic gaming
17 devices, paid by the tribes to the state treasurer for the benefit of
18 local charities in the areas surrounding tribal gaming facilities that
19 might be affected by the gaming facility; and (b) the "additional
20 charitable contributions," which are the net revenues, generated from
21 the additional charitable electronic gaming devices authorized by this
22 compact, paid by the tribes to the state treasurer for the benefit of
23 charities state-wide.

24 (2) "Class III gaming" means all forms of gaming as defined in 25
25 U.S.C. Sec. 2703(8), and by federal regulations adopted under IGRA, as
26 they existed on the effective date of this compact.

27 (3) "Commission" means the Washington state gambling commission.

28 (4) "Compact" means an amendment to existing tribal-state compacts
29 that is an agreement with the state, as ratified by any Indian tribe,
30 to govern regulation, management, and operation of electronic gaming
31 devices in a class III gaming facility.

32 (5) "Electronic gaming device" means any class III
33 electromechanical, electrical, electronic, or video device or machine
34 that upon payment of consideration is available to play or operate,
35 operation of which, whether by reason of the skill of the operator, or
36 application of the element of chance, or both, may deliver to or

1 entitle the person playing or operating the machine to receive cash,
2 coin, premiums, merchandise, redeemable game credits, or anything of
3 value other than unredeemable free games whether the payoff is made
4 automatically from the machine or in any other manner.

5 (6) "Existing tribal-state compact" means an agreement between the
6 state and an Indian tribe for class III gaming, approved under IGRA,
7 before the effective date of this compact.

8 (7) "Gaming facility" means the building in which class III
9 electronic gaming activities as authorized by this compact are
10 conducted by a tribe.

11 (8) "Gaming operation" means the enterprise owned by a tribe for
12 the conduct of any form of class III electronic gaming in any gaming
13 facility.

14 (9) "Gaming regulatory contribution" means the percentage of
15 revenues, based on gross gaming revenues from electronic gaming
16 devices, less prizes paid to players, paid by the tribe to the
17 commission, for regulatory activities under this compact.

18 (10) "Gross gaming revenues" means all revenues from electronic
19 gaming device wagers less amounts paid to players in the form of
20 prizes, before subtracting costs of operation.

21 (11) "IGRA" means the Indian Gaming Regulatory Act of 1988 (25
22 U.S.C. Sec. 2701 et seq. and 18 U.S.C. Sec. 1166 et seq.).

23 (12) "In-lieu dividends and contributions" means the percentage of
24 revenues based on gross gaming revenues less prizes paid from
25 electronic gaming devices, paid by the tribe to the state treasurer for
26 local economic development, for restoration of salmon and fisheries
27 habitat and watersheds, for local public safety and emergency services,
28 for the state regulation of tribal gaming, and for local charitable
29 contributions, as required by this compact. Revenues from charitable
30 electronic gaming devices are not included in in-lieu dividends and
31 contributions, and distributions from the charitable electronic gaming
32 devices must be made on a net revenues basis.

33 (13) "Local public safety and emergency services contribution"
34 means the percentage of revenues, based on gross gaming revenues from
35 electronic gaming devices, less prizes paid to players, paid by a tribe
36 to the state treasurer for distribution to the county in which the
37 class III gaming facility is located, for distribution to local law
38 enforcement agencies, emergency service providers, and other agencies
39 that might be affected by the gaming facility.

(14) "Net revenues" means all gross gaming revenues, less prizes paid, from electronic gaming devices less the cost of operating, maintaining, and tribal regulation of the devices, specifically excluding capital costs.

(15) "Tribal gaming agency" means an agency of a tribe, as the tribe may from time to time designate by written notice to the commission, as the tribal agency, primarily responsible for regulatory oversight of class III electronic gaming as authorized by this compact.

(16) "Tribe" or "tribal" means a federally recognized Indian tribe, or reference to a federally recognized Indian tribe, located in Washington state.

(17) "Wagering unit" means the minimum bet accepted by a specific electronic gaming device.

PART II. IMPLEMENTATION OF COMPACTS

A compact must be entered into by the state and any tribe that ratifies the compact in accordance with the tribe's constitution and applicable tribal laws and regulations. An existing tribal-state compact remains in effect and must be amended to add the terms of this compact.

The governor shall sign a compact meeting the terms in this compact unless otherwise mutually agreed upon within fifteen days after receipt of this compact. However, if the governor does not execute this compact within the time period, this compact is deemed signed for all purposes.

PART III. AUTHORIZED CLASS III GAMING

(1) AUTHORIZATION OF ELECTRONIC GAMING DEVICES. A tribe may offer any electronic gaming device with the elements of prize, consideration, and chance at a gaming facility located within the external boundaries of its reservation, or if negotiated with and approved by the state in a subsequent compact amendment or an existing tribal-state compact, on any other Indian lands as defined in IGRA. A tribe offering electronic gaming devices under this compact is entitled to transport electronic gaming devices or parts of the devices on state highways to and from the gaming facility for the purpose of installation, maintenance, servicing, or removal of the electronic gaming devices or parts. The

1 devices must comply with all requirements of IGRA and the gaming
2 regulations included in this compact, but a regulation may not impair
3 tribal rights guaranteed under IGRA.

4 (2) REGULATORY REQUIREMENTS. Before offering class III electronic
5 gaming devices for public play, the tribe shall have the regulatory
6 requirements, as set forth in this compact, in place and operational.

7 (3) OWNERSHIP OF GAMING FACILITY AND GAMING OPERATION. The tribe
8 shall own and operate the gaming operation, including the gaming
9 facility. The tribe may contract for management of the gaming facility
10 and gaming operation as provided by IGRA. The contract must subject
11 the manager to the terms of this compact, including annual
12 certification and licensing.

13 (4) NUMBER OF GAMING FACILITIES. A tribe may not operate more than
14 one class III gaming facility unless the tribe and the state mutually
15 agree that the tribe may operate additional gaming facilities.

16 (5) OPERATION OF ELECTRONIC GAMING DEVICES IN GAMING FACILITIES:
17 Phases I and II. Operation of electronic gaming devices in gaming
18 facilities must occur in two phases. Phase I must begin with the
19 commencement of operations and must continue until the tribe has
20 satisfied the conditions in this compact for entering phase II. During
21 phase I, a tribe may operate a random mix of two hundred ninety-five
22 class III electronic gaming devices or less at the option of the tribe,
23 regardless of how many gaming facilities the tribe is authorized to
24 operate. Phase I must last at least twelve months and not more than
25 fifteen months, unless the tribe has failed to satisfy the conditions
26 in this compact for entering phase II, in which case phase I must
27 continue until the earlier of either satisfaction of the conditions or
28 allowance to proceed to phase II under the dispute resolution
29 provisions of part V of this compact. After ten months of continual
30 phase I operation, the commission and the tribal gaming agency shall
31 commence a review of the class III electronic gaming device gaming
32 operation to determine compliance with the conditions set forth in
33 subsection (6) of part III of this compact. If, as a result of a
34 timely review, the commission and the tribal gaming agency determine
35 that the operation is in compliance with these conditions, the tribe
36 may implement phase II. During phase II, a tribe may operate a random
37 mix of four hundred ninety-five class III electronic gaming devices or
38 less at the option of the tribe, regardless of how many gaming
39 facilities the tribe is authorized to operate.

(6) CONDITIONS FOR COMMENCEMENT OF PHASE II. Commencement of phase II of the class III gaming operations must be conditioned upon the following:

(a) There has not been a violation of this compact that resulted in sanctions imposed by a federal district court or the national Indian gaming commission;

(b) There has not been a violation of this compact that is substantial or, due to repetition, would be deemed material;

(c) There has not been a material adverse impact on the public health, safety, or welfare of the citizens of the surrounding communities in the nature of criminal activity directly related to the electronic gaming device gaming operation;

(d) There has not been an unresolved and material violation of part V of this compact; and

(e) The tribal gaming agency has developed a program of electronic gaming device regulation and control, demonstrating a prenegotiated and predetermined level of proficiency, that includes the hiring of trained tribal gaming agents, an independent regulatory and reporting structure separate from that of the gaming facility, a system for the reporting of compact violations, and a consistent presence within the gaming facility.

(7) WAGERING LIMITS. For any electronic gaming device, there must be a maximum wagering unit of five dollars, with a maximum of five wagering units bet by a player per play. For any electronic gaming device with a maximum wagering unit of two dollars or less, there must be a maximum of eight wagering units bet by a player per play.

(8) AGE LIMITS. A person under the age of eighteen may neither participate in a gaming operation nor be allowed on a class III gaming floor during hours of actual operation. Should alcoholic beverages be offered on any portion of the gaming floor, a patron under the age of twenty-one may not be allowed on that portion of the gaming floor during hours of actual operation.

(9) HOURS OF OPERATION. (a) The maximum number of hours for a gaming operation must not exceed an average of one hundred twelve or one hundred forty hours per week on an annualized basis, whichever is greater as allowed under the tribe's existing tribal-state compact. The tribe shall schedule the hours to best comply with market conditions and may operate any day of the week. The gaming operation must be closed to the public from at least 4:00 a.m. until 8:00 a.m.

1 each day of operation unless other hours are or have already been
2 agreed to by the commission, the tribal gaming agency, and local law
3 enforcement, but the maximum hours of operation allowed under the
4 compact may not be exceeded.

5 (b) Notwithstanding (a) of this subsection, a tribe may offer class
6 III electronic gaming for up to seventy-two continuous hours on three
7 separate occasions per year when allowed by the existing tribal-state
8 compact or under a memorandum of understanding with the state.

9 PART IV. DISTRIBUTION OF REVENUES FOR ECONOMIC DEVELOPMENT,
10 HABITAT RESTORATION, ENFORCEMENT, AND CHARITABLE PURPOSES

11 In addition to creating opportunities for tribes to achieve
12 economic self-sufficiency, the purpose of this compact is to provide
13 revenue as outlined in this part for the restoration and enhancement of
14 salmon and fisheries habitat and watersheds, for economic development
15 opportunities across the state, for state regulation of tribal gaming
16 operations, for local public safety and emergency services, for local
17 charities that may be affected by a tribal gaming facility, and for
18 other charitable purposes.

19 As specified in this part, in-lieu dividends and contributions must
20 be used for salmon and fisheries habitat restoration and enhancement
21 and for economic development opportunities across the state. Also as
22 specified in this part, a portion of the in-lieu dividends and
23 contributions must be designated for contribution to the following
24 recipients for the following purposes: The gaming regulatory
25 contribution to the commission must provide revenue for state
26 regulation of tribal gaming operations; the local public safety and
27 emergency services contribution to local governments must be used by
28 counties in which gaming facilities are located for purposes including,
29 but not limited to, local law enforcement, emergency services, and
30 other agencies that might be affected by the gaming facility; the local
31 charitable contribution must be distributed for use by local charities
32 in the areas surrounding tribal gaming facilities that might be
33 affected by the gaming facility; and additional revenue must be made
34 available to charities across the state through the additional
35 charitable contribution.

36 (1)(a) IN-LIEU DIVIDENDS AND CONTRIBUTIONS. A tribe offering
37 gaming by electronic gaming devices at a gaming facility shall pay

1 fifteen percent of the electronic gaming device gross gaming revenues,
2 which are all revenues from electronic gaming device wagers less
3 amounts paid to players in the form of prizes, before subtracting costs
4 of operations, from the class III electronic gaming activities
5 authorized by this compact, as in-lieu dividends and contributions,
6 paid to the state treasurer for distribution as designated in (b) of
7 this subsection. The treasurer may recover reasonable administrative
8 and accounting costs incurred as a result of receiving and distributing
9 these funds.

10 (b) DISTRIBUTION OF IN-LIEU DIVIDENDS AND CONTRIBUTIONS TO THE
11 STATE TREASURER. All in-lieu dividends and contributions must be
12 transferred to the state treasurer within thirty days after the end of
13 each calendar quarter. The in-lieu dividends and contributions do not
14 constitute taxes or public funds, and must be kept separate and apart
15 from all public funds in a special account by the treasurer and
16 distributed on behalf of the tribes. The treasurer shall disburse
17 funds immediately for the uses as provided in this compact according to
18 the following formula:

19 (I) SALMON AND FISHERIES HABITAT AND WATERSHED RESTORATION AND
20 ENHANCEMENT. The Washington fund for salmon and fisheries must be
21 established. The fund for salmon and fisheries must be managed by a
22 board of directors appointed by the governor consisting of seven
23 members with knowledge of and experience in salmon and fisheries issues
24 and management, who will serve three-year terms. The board of
25 directors must include at least one member who is a tribal
26 representative, one member who is a representative of the For the Sake
27 of the Salmon organization while in existence, and one member who is a
28 representative of the Washington state department of fish and wildlife.
29 Of the initial members, two must be appointed for one-year terms, two
30 must be appointed for two-year terms, and three must be appointed for
31 three-year terms. The governor shall appoint one member to be the
32 chairperson. The treasurer shall deposit forty-five percent of the in-
33 lieu dividends and contributions into the fund for salmon and
34 fisheries. The board shall place priority on distributing the funds
35 for efforts to restore, protect, and enhance the salmon resources of
36 Washington state, including, but not limited to, the salmon restoration
37 programs of the For the Sake of the Salmon organization while in
38 existence. Emphasis must be placed on distributing the funds on a
39 watershed basis in a manner that furthers the priority of restoring,

1 protecting, and enhancing the state's salmon resources. The funds must
2 supplement rather than replace existing habitat and watershed
3 restoration and enhancement funds. The board may determine what
4 reasonable administrative costs are incurred as a result of receiving
5 and distributing these funds and may expend funds to cover those costs.
6 Members of the board must be reimbursed for reasonable meeting and
7 travel expenses.

8 (ii) ECONOMIC DEVELOPMENT. The treasurer shall distribute forty-
9 five percent of the in-lieu dividends and contributions to the
10 treasurers of each county in the state in an amount proportionate to
11 the county's population, for deposit in the counties' general funds.
12 Counties shall use these funds for economic development purposes
13 including, but not limited to: Construction and operation of sports
14 and convention facilities; development and attraction of new
15 businesses; and creation and enhancement of tourism and recreation.
16 The funds must supplement rather than replace existing county economic
17 development funds. Each county shall report annually to the treasurer
18 on the use of the funds. The county treasurers may recover reasonable
19 administrative and accounting costs incurred as a result of receiving
20 and distributing these funds.

21 (2) GAMING REGULATORY CONTRIBUTION. The treasurer shall distribute
22 an amount equal to two percent of the in-lieu dividends and
23 contributions to the Washington state gambling commission as the gaming
24 regulatory contribution. The commission shall use the contribution to
25 defray its regulatory costs under this compact.

26 (3) LOCAL PUBLIC SAFETY AND EMERGENCY SERVICES CONTRIBUTION. (a)
27 The treasurer shall distribute six percent of the in-lieu dividends and
28 contributions received from each tribal gaming facility to the county
29 treasurer in the county in which the gaming facility is located as the
30 local public safety and emergency services contribution. The local
31 public safety and emergency services contribution does not constitute
32 taxes or public funds, and must be kept separate and apart by the
33 county treasurer from all public funds in a special account. For each
34 gaming facility, there must be established a local public safety and
35 emergency services contribution committee that must receive all local
36 public safety and emergency services contributions from the gaming
37 facility from the county treasurer and distribute the contributions for
38 purposes including, but not limited to, local law enforcement,
39 emergency services, municipalities, and other agencies that might be

1 affected by a tribal gaming facility. The committee must consist of a
2 representative of the tribe operating the gaming facility, a
3 representative of the county in which the gaming facility is located,
4 and a representative of the commission. The makeup of the committee
5 may be altered by mutual agreement of the tribe operating the gaming
6 facility and the commission, if necessary. The county treasurers may
7 recover reasonable administrative and accounting costs incurred as a
8 result of receiving and distributing these funds.

9 (b) Within six months of the date of final approval of this
10 compact, the tribe and the county potentially impacted by a gaming
11 facility shall enter into a memorandum of understanding delineating the
12 anticipated governmental relationship and responsibilities both on and
13 off a tribal reservation with respect to utilization of the local
14 public safety and emergency services contribution. If the parties are
15 unable to enter into a memorandum of understanding, the local public
16 safety and emergency services contribution must be placed in an
17 interest-bearing escrow account pending the execution of a memorandum
18 of understanding. The tribe is entitled to any interest from the
19 escrow account unless it is subsequently determined by dispute
20 resolution under part V of this compact, that the tribe acted
21 unreasonably in refusing to sign the memorandum of understanding.

22 (c) Upon execution, the local public safety and emergency services
23 contribution committee shall disburse the local public safety and
24 emergency services contribution.

25 (4) CHARITABLE CONTRIBUTIONS. The Washington fund for charitable
26 contributions must be established. The Washington fund for charitable
27 contributions must be managed by a board of directors appointed by the
28 governor consisting of seven members with knowledge of and experience
29 in charitable causes and issues, who will serve three-year terms. Of
30 the initial members, two must be appointed for one-year terms, two must
31 be appointed for two-year terms, and three must be appointed for three-
32 year terms. The governor shall appoint one member to be the
33 chairperson. The board of directors are responsible for receiving and
34 distributing charitable donations received from the designated sources
35 described in this subsection. The board may determine what reasonable
36 administrative costs are incurred as a result of receiving and
37 distributing these funds and may expend funds to cover those costs.
38 Members of the board must be reimbursed for reasonable meeting and
39 travel expenses.

1 (a) LOCAL CHARITABLE CONTRIBUTION. The treasurer shall distribute
2 two percent of the in-lieu dividends and contributions as the local
3 charitable contribution, which must be deposited in the Washington fund
4 for charitable contributions. The board shall distribute the two
5 percent of funds received as the local charitable contribution portion
6 of the in-lieu dividends and contributions to local charities in the
7 areas surrounding tribal gaming facilities that might be affected by
8 the gaming facility and that are determined by the board of directors
9 to be qualified to receive these funds. Local charities are also
10 eligible to receive funds described in (b) of this subsection if deemed
11 appropriate by the board.

12 (b) ADDITIONAL CHARITABLE CONTRIBUTIONS. Each tribe actually
13 operating electronic gaming devices under a compact for electronic
14 gaming devices shall operate an additional three of the devices in
15 phase I and an additional five of the devices in phase II for
16 charitable purposes. For the purposes of this subsection (4)(b), the
17 charitable contribution must be the net revenues from the additional
18 charitable electronic gaming devices, which the tribe may calculate as
19 the net revenues from the actual electronic gaming devices designated
20 for charitable purposes or as the average of the net revenues per
21 electronic gaming device in the gaming facility multiplied by the
22 number of electronic gaming devices authorized by this compact for
23 charitable purposes. The treasurer shall distribute the charitable
24 contribution from the charitable electronic gaming devices to the
25 Washington fund for charitable contributions. The board shall
26 distribute the revenues received from the electronic gaming devices
27 dedicated for charity purposes to such charities across the state as it
28 deems appropriate and qualified to receive the funds. Recipients of
29 the funds must include, but not be limited to, the Washington state
30 council on problem gambling.

31 (5) EXCLUSIVITY. If the state authorizes the installation and
32 playing in the state at locations other than a tribal gaming facility
33 operating under this compact a total number of class III electronic
34 gaming devices that is more than twenty-five percent of the total
35 number of class III electronic gaming devices authorized by this
36 compact for location in all participating tribal gaming facilities,
37 then the in-lieu dividends and contributions for economic development
38 in local counties and the additional charitable contributions must be
39 eliminated, and the percentages of the in-lieu dividends and

1 contributions must be added to the gross gaming revenues retained by
2 the tribes under subsection (6) of this part. The in-lieu dividends
3 and contributions for salmon and fisheries habitat and watershed
4 restoration and enhancement, the local public safety and emergency
5 services contribution, the gaming regulatory contribution, and the
6 local charitable contribution must remain in full force and effect, but
7 the local charitable contribution must then be distributed by the
8 tribe.

9 (6) GROSS GAMING REVENUES RETAINED BY TRIBES. Except as provided
10 in subsection (5) of this part, the tribes shall retain eighty-five
11 percent of gross gaming revenues, from which the tribes shall pay all
12 costs of operating, maintaining, and tribal regulation of gaming
13 operations. Any remaining gross gaming revenues must be used to fund
14 tribal government operations or programs, to provide for the general
15 welfare of the tribe and its members, and to promote tribal economic
16 development, as determined by the tribe. Uses of this revenue may
17 include, but not be limited to, providing employment opportunities,
18 revenue for education, improved health care, social services, public
19 safety services such as police and fire protection, and to contribute
20 to charitable organizations.

21 PART V. REGULATION OF CLASS III ELECTRONIC GAMING ACTIVITIES

22 (1) ENTIRE REGULATIONS. For tribes that have existing tribal-state
23 compacts, all regulations for class III gaming operations must be
24 extended to the additional class III electronic gaming facilities
25 authorized by this compact. The regulations in the existing tribal-
26 state compacts and the regulations in this compact constitute all the
27 regulations applicable to class III electronic gaming facilities.
28 Additional regulations are not required.

29 (2) MINIMUM STANDARDS FOR ELECTRONIC GAMING DEVICES. (a)
30 Electronic gaming devices must pay out a mathematically demonstrable
31 percentage of all amounts wagered, that must not be less than eighty
32 percent nor more than one hundred percent. Electronic gaming devices
33 that might be affected by player skill must meet this standard when
34 using a method of play that provides the greatest return to the player
35 over a period of continuous play.

36 (b) Electronic gaming devices must:

37 (I) Be controlled by a microprocessor or the equivalent;

1 (ii) Be compatible to on-line data monitoring;

2 (iii) Have a separate locked internal enclosure within the device
3 for the circuit board containing the EPROM, which are computer chips
4 that store memory, and battery back-up;

5 (iv) Be able to continue a game with no data loss for at least
6 twenty-four hours after a power failure;

7 (v) Have at least three previous and current game data recall;

8 (vi) Have a random selection process that must not produce
9 detectable patterns of game elements or detectable dependency upon any
10 previous game outcome, the amount wagered, or upon the style or method
11 of play;

12 (vii) Clearly display applicable rules of play and the payout
13 schedule;

14 (viii) Display an accurate representation of each game outcome.
15 After selection of the game outcome, the electronic gaming device must
16 not make a variable secondary decision that affects the result shown to
17 the player;

18 (ix) Have a complete set of nonvolatile meters including in, out,
19 dropped, total credits wagered, total credits won, number of games
20 played, jackpots paid, door openings, and fill or coin compartment
21 accesses;

22 (x) Have each possible permutation or combination of game elements
23 that produce winning or losing game outcomes available for random
24 selection at the initiation of each play; and

25 (xi) Not automatically alter paytables or any function of the
26 electronic gaming device based on internal computation of the hold
27 percentage.

28 (c) When an electronic gaming device is unable to drop sufficient
29 coins for payment of jackpots requiring the payment to be made by the
30 operator, jackpot payout tickets must be prepared containing the
31 following information:

32 (i) The location of the electronic gaming device;

33 (ii) The date;

34 (iii) The time of day;

35 (iv) The electronic gaming device number;

36 (v) The amount of the jackpot payout in written and numeric form;

37 (vi) The signature of a licensee or operator employee making the
38 payment; and

(vii) A signature of at least one other operation employee attesting to the accuracy of the form.

(d)(I) Electronic gaming devices linked to any progressive jackpot system must meet the following specifications:

(A) A progressive jackpot may be transferred to another progressive electronic gaming device at the same location in the event of a device malfunction or replacement, with approval of the regulator;

(B) A licensee may impose a limit on the jackpot of an electronic gaming device that is linked to any progressive controller as long as the minimum payout is greater than the possible maximum jackpot payout showing on any individual electronic gaming device linked to the progressive jackpot; and

(C) A payoff indicator may not be turned back to a lesser amount unless one of the following circumstances occurs:

(I) The amount shown on the progressive meter is paid to a player as a jackpot; or

(II) It becomes necessary to change the jackpot indicator because of an electronic gaming device malfunction, in which case the malfunction and adjustment must be recorded by appropriate electronic gaming device monitoring on-line data system.

(ii) A licensee who is liable for payment of a progressive jackpot must secure the amount of the payment by a cash deposit, a performance bond, or a security instrument nationally recognized in the gaming industry. The regulator must approve all deposits, bonds, or other instruments, and the security instrument must be secured in a method approved by the regulators.

(e) Electronic gaming devices must:

(I) Be a device as defined in this compact;

(ii) Not subject a player to physical hazards;

(iii) Contain a surge protector on the line that feeds power to the electronic gaming device. The battery backup or an equivalent for the electronic meters must be capable of maintaining accuracy of all information required for one hundred eighty days after power is discontinued from the electronic gaming device. The backup must be kept within the locked logic board compartment;

(iv) Have an on/off switch that controls the electrical current used in the operation of the electronic gaming device and any associated equipment that must be located in an accessible place within its interior;

1 (v) Be designed so that it is not adversely affected by static
2 discharge or other electromagnetic interference;

3 (vi) Have at least one electronic bill or coin acceptor. The
4 acceptors must be designed to accept legitimate coin or currency only.
5 The bill or coin receiver on an electronic gaming device must be
6 designed to prevent the use of cheating methods such as slugging,
7 stringing, or spooning. All bill or coin acceptors are subject to
8 approval by the regulators. Bills or coins accepted but that are
9 inappropriate bills or coins must be returned to the player by
10 activation of the hopper or credited toward the next play of the
11 electronic gaming device. The electronic gaming device control program
12 must be capable of handling rapidly fed bills or coins so that
13 occurrences of inappropriate bills or coins are prevented;

14 (vii) Not be readily accessible in its internal space of the
15 electronic gaming device when the front door is both closed and locked;

16 (viii) Have logic boards and software EPROMS, which are computer
17 chips that store memory, in a locked area within the electronic gaming
18 device, secured with a seal or similar item approved by the regulators
19 and that must be affixed by an authorized regulatory agent and must
20 include the date, signature, and identification number of the agent.
21 Only an authorized agent may remove the seal;

22 (ix) Have a bill or coin compartment contained in a locked area
23 within or attached to the electronic gaming device;

24 (x) Not contain hardware switches that alter the pay tables or
25 payout percentages in its operation. Hardware switches may be
26 installed to control graphic routines, speed of play, and sound;

27 (xi) Contain an unremovable identification plate containing the
28 following information, appearing on the exterior of the electronic
29 gaming device:

30 (A) Manufacturer;

31 (B) Serial number; and

32 (C) Model number;

33 (xii) Contain the rules of play for the electronic gaming device
34 displayed on its face or screen. Rules may not be incomplete,
35 confusing, or misleading. Each electronic gaming device must also
36 display the credits wagered and the credits awarded for the occurrence
37 of each possible winning combination, based on the number of credits
38 wagered. All information required by this subsection (2)(e)(xii) must

1 be kept under glass or another transparent substance and stickers or
2 other removable items may not be placed over this information;

3 (xiii) Have equipment that enables the electronic gaming device to
4 communicate with a central computer system accessible to the
5 regulators, using an industry standard protocol data format approved by
6 the regulators;

7 (xiv) Be capable of continuing the current game with all current
8 game features after a malfunction is cleared. This rule does not apply
9 if an electronic gaming device is rendered totally inoperable. The
10 current wager and all credits appearing on the screen before the
11 malfunction must be returned to the patron;

12 (xv) Have attached a drop bucket housed in a locked compartment
13 separate from any other compartment of the electronic gaming device;

14 (xvi) Be capable of detecting and displaying the following error
15 conditions that an attendant may clear:

16 (A) Bill or coin-in jam;
17 (B) Bill or coin-out jam;
18 (C) Hopper empty or time-out;
19 (D) Program error;
20 (E) Hopper runaway or extra bill or coin paid out;
21 (F) Reverse bill or coin-in;
22 (G) Reel error; and
23 (H) Door open;

24 (xvii) Use a communication protocol that ensures that erroneous
25 data or signals do not adversely affect the operation of the electronic
26 gaming device;

27 (xviii) Display an approved registration number permanently
28 imprinted, affixed, or impressed on the outside of the electronic
29 gaming device;

30 (xix) Have the capacity to display on the front of the electronic
31 gaming device its rules of play, character combinations requiring
32 payouts, and the amount of the related payouts. In addition, the
33 licensee shall display on each electronic gaming device either:

34 (A) A clear description of any merchandise or thing of value
35 offered as a payout, including the cash equivalent value of the
36 merchandise or thing of value offered, the dates the merchandise or
37 thing will be offered if there is a time limit upon initially offering
38 the merchandise or thing of value, and the availability or
39 unavailability to the patron of the optional cash equivalent value; or

(B) The name or a brief description of the merchandise or thing of value offered. However, a sign containing the information specified in (e)(xix)(A) of this subsection must be displayed in a prominent location near the electronic gaming device; and

(xx) Have a mechanical, electrical, or electronic device that automatically precludes a player from operating the electronic gaming device after a jackpot requiring a manual payout and requires an attendant to reactivate the electronic gaming device.

(3) COMPUTER MONITORING REQUIREMENTS OF ELECTRONIC GAMING DEVICES.

(a) The operator shall have a computer connected to all electronic gaming devices in a facility to record and monitor the activities of the devices. An electronic gaming device may not be operated unless it is on-line and communicating to a computer monitoring system approved by the regulators. The computer monitoring system must provide on-line, real-time monitoring and data acquisition capability in the format and media approved by the regulators.

(b) The computer permitted under (a) of this subsection must be designed and operated to automatically perform and report functions relating to electronic gaming device meters, and other exceptional functions and reports to the facility as follows:

(I) Record the number and total values of bills or coins in the electronic gaming device for the purpose of activating play;

(ii) Record the number and total value of bills or coins deposited in the drop bucket of the electronic gaming device;

(iii) Record the total payouts, including the number for each group or set of payout symbols made by the electronic gaming device;

(iv) Record each door opening;

(v) Record each access to the drop bucket; and

(vi) Record each reset of the electronic gaming device.

(4) LEASE OF ELECTRONIC GAMING DEVICES. Indian tribes may lease electronic gaming devices, but the lease payment for each electronic gaming device may not exceed the lesser of the prevailing industry price or thirty percent of the net revenues from the device.

(5) DISPUTE RESOLUTION. Any dispute that arises under the terms of this compact must be resolved under the terms of the dispute resolution provisions of the existing tribal-state compact."

NEW SECTION. **Sec. 4.** To the extent that the terms of the compact in section 3 of this act vary from any terms in an existing tribal-

1 state compact, the terms of the compact in section 3 control with
2 respect to regulation and operation of electronic gaming device gaming
3 operations.

4 NEW SECTION. **Sec. 5.** This chapter, being necessary for the
5 welfare of the state and its inhabitants, must be liberally construed
6 to effect the purposes of this chapter. Notwithstanding anything in
7 this act to the contrary, this chapter and all of the terms of the
8 compact in section 3 of this act must be interpreted in accordance with
9 the provisions of IGRA, as it existed on the effective date of this
10 act.

11 NEW SECTION. **Sec. 6.** The process provided in Laws of 1992, ch.
12 172, Sec. 2, as codified in RCW 9.46.360, do not apply to the compact
13 in section 3 for class III electronic gaming.

14 NEW SECTION. **Sec. 7.** If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

18 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act are each
19 added to chapter 9.46 RCW.

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